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IRS

COVID-19-related tax credits: Basic FAQs

These updated FAQs were released to the public in Fact Sheet 2022-16 PDF, March 3, 2022.

Note that the American Rescue Plan Act of 2021, enacted March 11, 2021, amended and extended the tax credits (and the availability of advance payments of the tax credits) for paid sick and family leave for wages paid with respect to the period beginning April 1, 2021, and ending on September 30, 2021. These FAQs do not currently reflect the changes made by the American Rescue Plan Act; however, please continue to check IRS.gov for any updates related to the change in law.

1. What tax credits does the FFCRA provide? (updated January 28, 2021)

The FFCRA provides businesses with tax credits to cover certain costs of providing employees with paid sick leave and expanded family and medical leave for reasons related to COVID-19, for periods of leave from April 1, 2020, through March 31, 2021.

Note: The COVID-related Tax Relief Act of 2020 extends the tax credits available to Eligible Employers for paid sick and family leave provided under the EPSLA or Expanded FMLA through March 31, 2021. Therefore, any references to these credits expiring on December 31, 2020 have been updated to March 31, 2021.

2. When can employers start claiming the credits? (updated January 28, 2021)

Eligible Employers may claim tax credits for qualified leave wages paid to employees on leave due to paid sick leave or expanded family and medical leave for reasons related to COVID-19 taken for periods of leave beginning on April 1, 2020, and ending on March 31, 2021.

Eligible Employers may claim the credits on their federal employment tax returns (e.g., Form 941, Employer's Quarterly Federal Tax Return PDF), but they can benefit more quickly from the credits by reducing their federal employment tax deposits. If there are insufficient federal employment taxes to cover the amount of the credits, an Eligible Employer may request an advance payment of the credits from the IRS by submitting a Form 7200, Advance Payment of Employer Credits Due to COVID-19.

For the circumstances, amounts, and period for which the credits are available, see "Determining the Amount of the Tax Credit for Qualified Sick Leave Wages", "Determining the Amount of the Tax Credit for Qualified Family Leave Wages", and "Periods of Time for Which Credits are Available."

3. When will employers start to receive the credits?

After qualified leave wage payments have been made, Eligible Employers may receive payment of the credits in accordance with applicable IRS procedures.

For more information, see "How do Eligible Employers claim the credit?"

4. What documentation must an Eligible Employer retain to substantiate eligibility to claim the tax credits? (updated November 25, 2020)

Eligible Employers claiming the credits for qualified leave wages (and allocable qualified health plan expenses and the Eligible Employer's share of Medicare tax), must retain records and documentation related to and supporting each employee's leave to substantiate the claim for the credits, and retain the Forms 941, Employer's Quarterly Federal Tax Return PDF, and 7200, Advance of Employer Credits Due To COVID-19 PDF, and any other applicable filings made to the IRS requesting the credit.

For more information, see "How Should an Employer Substantiate Eligibility for Tax Credits for Qualified Leave Wages?"

5. What employers may claim the tax credits? (updated January 28, 2021)

Eligible Employers that are entitled to claim the refundable tax credits are businesses and tax-exempt organizations that: (1) have fewer than 500 employees, and (2) pay “qualified sick leave wages” and/or “qualified family leave wages” under the EPSLA and/or the Expanded FMLA, respectively.

Note that the Federal government, the governments of any state or political subdivision thereof, and any agencies or instrumentalities of those governments are not Eligible Employers and are not entitled to receive tax credits for providing paid leave wages under the FFCRA. Tribal governments that provide paid sick and paid family and medical leave pursuant to the FFCRA are eligible to claim the tax credits for qualified leave wages, assuming they are otherwise Eligible Employers.

For more information, see "Only businesses that employ fewer than 500 employees are eligible for the credit, because only those businesses are required to provide qualified leave wages. How is the "fewer than 500 employees" threshold determined?", and "What is an Eligible Employer?"

6. What is the amount of the refundable tax credits available to Eligible Employers? (updated January 28, 2021)

The credits cover 100 percent of up to two weeks (up to 80 hours) of the qualified sick leave wages and up to ten weeks of the qualified family leave wages (and any qualified health plan expenses allocable to those wages) that an Eligible Employer paid during a calendar quarter, plus the amount of the Eligible Employer's share of Medicare tax imposed on those wages. Qualified sick leave and qualified family leave under the EPSLA and the Expanded FMLA, respectively, are in addition to employees' preexisting leave entitlements. See the Department of Labor's Families First Coronavirus Response Act: Questions and Answers for rules regarding the FFCRA paid sick leave and expanded family and medical leave and other leave entitlements. Eligible Employers may only claim a credit for qualified leave wages.

Example: An Eligible Employer pays $10,000 in qualified sick leave wages and qualified family leave wages in Q2 2020. It does not owe the employer's share of social security tax on the $10,000, but it will owe $145 for the employer's share of Medicare tax. Its credits equal $10,145, which include the $10,000 in qualified leave wages plus $145 for the Eligible Employer's share of Medicare tax (this example does not include any qualified health plan expenses allocable to the qualified leave wages). This amount may be applied against any federal employment taxes that Eligible Employer is liable for on any wages paid in Q2 2020. Any excess over the federal employment tax liabilities is refunded in accordance with normal procedures. Eligible Employer must still withhold the employee's share of social security and Medicare taxes on the qualified leave wages paid, except to the extent the employer opts to defer the withholding and payment of the employee's share of social security tax in accordance with Notice 2020-65 PDF, as modified by Notice 2021-11 PDF.

For more information, see "What is included in "qualified sick leave wages"?" and "What is included in "qualified family leave wages"?"

7. What are "qualified sick leave wages"? (updated January 28, 2021)

Qualified sick leave wages are wages (as defined in section 3121(a) of the Internal Revenue Code (the "Code"), determined without regard to section 3121(b)(1)-(22) of the Code and section 7005(a) of the FFCRA) and compensation (as defined in section 3231(e) of the Code, determined without regard to the exclusions under section 3231(e)(1) of the Code and without regard to section 7005(a) of the FFCRA) that an employer pays under the EPSLA to an employee who is unable to work or telework because of either the employee's personal health status (that is, the employee is under COVID-19 quarantine or self-quarantine or has COVID-19 symptoms and is seeking a medical diagnosis) or the employee's need to care for others (that is, the employee is caring for someone with COVID-19 or for a child whose school or place of care is closed or child care provider is unavailable).

For more information, see "What is included in "qualified sick leave wages"?"

8. What are “qualified family leave wages”? (updated January 28, 2021)

Qualified family leave wages are wages (as defined in section 3121(a) of the Internal Revenue Code (the “Code”), determined without regard to section 3121(b)(1)-(22) of the Code and section 7005(a) of the FFCRA) and compensation (as defined in section 3231(e) of the Code, determined without regard to the exclusions under section 3231(e)(1) of the Code and without regard to section 7005(a) of the FFCRA) that an employer pays under the Expanded FMLA to an employee who is unable to work or telework because the employee is caring for a child whose school or place of care is closed or child care provider is unavailable for reasons related to COVID-19.

For more information, see "What is included in "qualified family leave wages"?"

8a. Do qualified leave wages include wages paid to an employee who must care for a child because the child’s summer camp is closed? (updated January 28, 2021)

Yes. Wages or compensation paid to an employee are qualified leave wages if the employee is unable to work or telework due to a need to care for his or her child whose place of care is closed for reasons related to COVID-19. An employee would satisfy these criteria if he or she cannot work or telework in order to care for a child due to the closure of a summer camp, summer enrichment program, or other summer program for reasons related to COVID-19.

For more information, see the Department of Labor's Families First Coronavirus Response Act: Questions and Answers.

9. What are "qualified health plan expenses"?

Qualified health plan expenses are amounts paid or incurred by an Eligible Employer to provide and maintain a group health plan (as defined in section 5000(b)(1) of the Internal Revenue Code) that are allocable to the employee's qualified leave wages.

For more information, see "Determining the Amount of Allocable Qualified Health Plan Expenses."

10. What is the Eligible Employer’s share of Medicare tax on qualified leave wages? (updated January 28, 2021)

The FFCRA adds to the tax credits the amount of the Hospital Insurance tax, also known as Medicare tax, that Eligible Employers are required to pay on qualified leave wages. The rate for this tax is 1.45 percent of wages.

Note: There is no credit for the employer portion of OASDI tax, also known as social security tax, that Eligible Employers are required to pay on the qualified leave wages because the qualified leave wages are not subject to this tax.

11. Are any small businesses exempt from the requirements to provide qualified sick or family leave wages? (updated January 28, 2021)

The FFCRA permits the Department of Labor to provide rules that a business with fewer than 50 employees may use to claim an exemption from providing paid sick leave and expanded family and medical leave for the purpose of caring for a child whose school or place of care is closed or whose child care provider is unavailable for reasons related to COVID-19 if providing these qualified leave wages would jeopardize the viability of their businesses as a going concern. Any business that claims the exemption is not entitled to tax credits for any qualified leave wages that they are exempt from providing.

The FFCRA also permits employers whose employees are health care providers or emergency responders not to provide qualified sick leave or qualified family leave wages to those employees.

For more information about exemptions from the requirement to provide paid sick leave and expanded family and medical leave under the EPSLA and Expanded FMLA, respectively, see the Department of Labor's Families First Coronavirus Response Act: Questions and Answers.

Note: The EPSLA and Expanded FMLA only require employers to provide paid sick and family leave, respectively, to employees unable to work or telework for periods after March 31, 2020, and before January 1, 2021. Under the COVID-related Tax Relief Act of 2020, employers are not required to provide paid sick and family leave to employees after December 31, 2020; however, Eligible Employers that voluntarily provide paid sick or family leave that would have met the requirements of the EPSLA or Expanded FMLA to employees may claim the tax credits for providing the qualified leave wages through March 31, 2021.

12. How do Eligible Employers claim the credits? (updated January 28, 2021)

Eligible Employers report their total qualified leave wages (and allocable qualified health plan expenses and the Eligible Employer's share of Medicare tax on the qualified leave wages) for each quarter on their federal employment tax return, usually Form 941, Employer's Quarterly Federal Tax Return PDF. Form 941 is used by most Eligible Employers to report income tax and social security and Medicare taxes withheld from employee wages, as well as the Eligible Employer's own share of social security and Medicare taxes.

In anticipation of receiving the credits, Eligible Employers can recover qualified leave wages (and allocable qualified health plan expenses and the Eligible Employer’s share of Medicare tax on the qualified leave wages) by accessing federal employment taxes related to wages paid between April 1, 2020, and March 31, 2021, including withheld taxes, that would otherwise be required to be deposited with the IRS. This means that in anticipation of claiming the credits on the Form 941, Eligible Employers can retain the federal employment taxes that they otherwise would have deposited, including federal income tax withheld from employees, the employees’ share of social security and Medicare taxes, and the Eligible Employer’s share of social security and Medicare taxes with respect to all employees. The Form 941 instructions explain how to reflect the reduced liabilities for the quarter related to the deposit schedule.

Prior to retaining deposits in anticipation of the credit, Eligible Employers are permitted to defer the deposit and payment of the employer's share of social security tax under section 2302 of the CARES Act. For more information, see Deferral of employment tax deposits and payments through December 31, 2020. In addition, employers may opt to defer withholding and payment of the employee's share of Social Security tax under Notice 2020-65 PDF, as modified by Notice 2021-11 PDF, on certain wages paid between September 1, 2020 through December 31, 2020.

For more information, see "How to Claim the Credits."

13. What if an Eligible Employer does not have enough federal employment taxes set aside for deposit to cover amounts provided as qualified leave wages? (updated January 28, 2021)

If an Eligible Employer does not have enough federal employment taxes set aside for deposit to cover amounts provided as qualified leave wages (and allocable qualified health plan expenses and the Eligible Employer's share of Medicare tax on the qualified leave wages), the Eligible Employer may request an advance of the credits by completing Form 7200, Advance Payment of Employer Credits Due to COVID-19. The Eligible Employer will account for the amounts received as an advance when it files its Form 941, Employer's Quarterly Federal Tax Return, for the relevant quarter.

For more information about claiming the tax credits for providing qualified leave wages, see "How to Claim the Credits."

14. What makes the credits "fully refundable"? (updated November 25, 2020)

The credits are fully refundable because the Eligible Employer may get a refund if the amount of the credits is more than certain federal employment taxes the Eligible Employer owes. That is, if for any calendar quarter the amount of the credits the Eligible Employer is entitled to exceeds the employer portion of the social security tax on all wages (or the employer portion of the social security tax and Medicare tax on all compensation for employers subject to RRTA) paid to all employees, then the excess is treated as an overpayment and refunded to the Eligible Employer under section 6402(a) or 6413(b) of the Internal Revenue Code.

15. Are similar tax credits available to self-employed individuals? (updated January 28, 2021)

Yes. The FFCRA also provides comparable credits for self-employed individuals carrying on any trade or business within the meaning of section 1402 of the Internal Revenue Code if the self-employed individual would be eligible to receive paid leave under the EPSLA or Expanded FMLA if the individual were an employee of an employer (other than him or herself).

For more information about how the credits apply to self-employed individuals, see "Specific Provisions Related to Self-Employed Individuals."

16. Only businesses that employ fewer than 500 employees are eligible for the credits, because only those businesses provide qualified leave wages. How is the "fewer than 500 employees" threshold determined? (updated January 28, 2021)

A business is considered to have fewer than 500 employees if, at the time an employee's leave is to be taken, the business employs fewer than 500 full-time and part-time employees within the United States, which includes any State of the United States, the District of Columbia, or any Territory or possession of the United States. The Department of Labor (DOL) guidance provides a more detailed summary of which workers must be taken into account for purposes of the fewer than 500 employee threshold. DOL guidance also explains when business entities should be treated as separate employers and when they should be aggregated as a single employer for purposes of determining their total number of employees.

For more information, see the Department of Labor's Families First Coronavirus Response Act: Questions and Answers.

17. May an Eligible Employer reduce its federal employment tax deposit by the qualified leave wages that it has paid without incurring a failure to deposit penalty? (updated January 28, 2021)

Yes. An Eligible Employer that pays qualified leave wages in a calendar quarter will not be subject to a penalty under section 6656 of the Internal Revenue Code (the "Code") for failing to deposit federal employment taxes if:

1. the Eligible Employer paid qualified leave wages to its employees in the calendar quarter before the required deposit;
2. the total amount of federal employment taxes that the Eligible Employer does not timely deposit (reduced by any amount of the employer's share of social security tax deferred under section 2302 of the CARES Act) is less than or equal to the amount of the Eligible Employer's anticipated tax credit for the qualified leave wages for the calendar quarter as of the time of the required deposit; and
3. the Eligible Employer did not seek payment of an advance credit by filing Form 7200, Advance Payment of Employer Credits Due to COVID-19 PDF, with respect to any portion of the anticipated credits it relied upon to reduce its deposits.

For more information about the relief from the penalty for failure to deposit federal employment taxes on account of qualified leave wages, see Notice 2020-22 PDF and FAQs addressing the deferral of the deposit of all of the employer's share of social security tax under section 2302 of the CARES Act and the reduction in deposits for credits, "Deferral of employment tax deposits and payments through December 31, 2020." In addition,

employers may opt to defer withholding and payment of the employee's share of social security tax under Notice 2020-65 PDF, as modified by Notice 2021-11 PDF, on certain wages paid between September 1, 2020 through December 31, 2020.

18. May an Eligible Employer receive both the tax credits for qualified leave wages under the FFCRA and the Employee Retention Credit under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)? (updated January 28, 2021)

Yes, if an Eligible Employer also meets the requirements for the employee retention credit, it may receive both credits, but not for the same wage payments.

Section 2301 of the CARES Act allows certain employers subject to a full or partial closure order due to COVID-19 or experiencing a significant decline in gross receipts a tax credit for retaining their employees. The qualified wages for the employee retention credit do not include the amount of qualified leave wages for which the employer received tax credits under the FFCRA.

For more information on the Employee Retention Credit, see FAQs: Employee Retention Credit under the CARES Act.

Note that the Taxpayer Certainty and Disaster Tax Relief Act of 2020, enacted December 27, 2020, amended and extended the employee retention credit (and the availability of certain advance payments of the tax credits) under section 2301 of the CARES Act. The FAQs on the Employee Retention Credits under the CARES Act do not currently reflect the changes made by the Taxpayer Certainty and Disaster Tax Relief Act of 2020; however, please continue to check back to the applicable page for any updates related to the change in law.

19. May an Eligible Employer receive both the tax credits for qualified leave wages under the FFCRA and a Small Business Interruption Loan (Paycheck Protection Program) under the CARES Act? (updated November 25, 2020)

Yes. However, if an Eligible Employer receives tax credits for qualified leave wages, those wages are not eligible as "payroll costs" for purposes of receiving loan forgiveness under section 1106 of the CARES Act.

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